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BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
PAUL B. and BETTY LOU KROGH,

Appellants,

v.

KING COUNTY,

Respondent.

PCHB No. 81-144

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter, the appeal from the denial of a flood control zone permit application, came before the Pollution Control Hearings Board, David Akana (presiding) and Gayle Rothrock, at an informal hearing in Lacey on June 8, 1982.

Appellants were represented by their attorney, Steve J. Crane; respondent was represented by James L. Brewer, deputy prosecuting attorney.

Having heard the testimony, having examined the exhibits, and having considered the contentions of the parties, the Board makes these

1 FINDINGS OF FACT

2 I

3 Respondent is a delegate of the permit program provided in chapter  
4 86.16 RCW, the State Flood Control Zone Statute.

5 II

6 Appellants Paul and Betty Krogh own real property within King  
7 County, Washington, located in Section 23, Township 23 North, Range 5  
8 E.W.M. The subject property lies entirely within the boundaries of a  
9 state flood control zone, namely Cedar River Flood Control Zone No. 3.

10 III

11 In August of 1977, appellants purchased two 75 foot by 75 foot  
12 lots at 15421 Jones Road Southeast on land described above. The lots  
13 are located next to the Cedar River. At the time of purchase, a  
14 concrete slab was located on the property. A dilapidated 10 foot by  
15 55 foot mobile home existed and was supported by the slab.

16 IV

17 Appellants always intended to replace the old mobile home with a  
18 habitable one. A new 14 foot by 60 foot mobile home was eventually  
19 installed on an enlarged concrete pad in the same location. The  
20 mobile home is supported on blocks and is without skirting or wheels.  
21 It is not tied or bolted to the pad. The floor of the mobile home is  
22 about four feet above the natural ground level.

23 V

24 In order to move the mobile home, tires and wheels would have to  
25 be replaced, a tongue attached to the trailer, and utilities (water,

1 power, sewer) disconnected. The time required to accomplish all of  
2 the foregoing is not known. Appellants are willing to set the mobile  
3 home on wheels, if required, to comply with the flood control zone  
4 regulations. A special truck would be needed to haul the home out.

5 VI

6 A few other homes are as close or closer to the water, than  
7 appellants' home would be. The elevation of such sites was not  
8 disclosed, however.

9 VII

10 Appellants intended to use the mobile home as their permanent  
11 single family residence. The mobile home cannot be located on  
12 property they own elsewhere on a seasonal basis.

13 VIII

14 About a week after installing the new mobile home on the property,  
15 appellants first learned that certain permits, including a flood  
16 control zone permit, would have to be obtained.

17 In 1977, appellants applied for a flood control zone permit. The  
18 application was denied in February, 1978, and not appealed.

19 IX

20 In June of 1981, appellants again filed an application for a flood  
21 control zone permit. In August, King County denied the application,  
22 which decision was appealed to this Board.

23 X

24 Appellants' property lies within the Cedar River "flood plain" as  
25 that term is defined in chapter 508-60 WAC. Appellants' property lies

1 partially within and partially outside of the Cedar River "floodway"  
2 as described in the same regulation.

3 The new mobile home is located with its long axis situated  
4 perpendicular to the flow of the Cedar River. The mobile home is  
5 located within the floodway. The floor of the mobile home may be  
6 located above the elevation of a 100 year frequency flood, however.

#### 7 XI

8 King County interprets "structures" to include a mobile home  
9 because it would be connected to utilities. Mobile home construction  
10 is more readily dislodged in floodwater than are more permanent  
11 structures. This aspect presents not only a danger to the mobile home  
12 itself, but other structures located downstream.

13 The county interprets the regulation as requiring the site itself  
14 to be above the 100 year floodwater elevation, and not only the floor  
15 of a structure.

16 One purpose of the regulation is to eventually obtain conforming  
17 uses along the shoreline.

#### 18 XII

19 There has never yet been a 100 year flood recorded on the Cedar  
20 River.

#### 21 XIII

22 Any Conclusion of Law which should be deemed a Finding of Fact is  
23 hereby adopted as such.

24 From these Findings the Board enters these  
25

26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW & ORDER  
PCHB NO. 81-144

1 CONCLUSIONS OF LAW

2 I

3 An application for a flood control zone permit in a floodway will  
4 be granted when all of the following requirements are met:

5 (1) The structures or works are designed so as not  
6 to be appreciably damaged by flood waters.

7 (2) The structures or works shall be firmly anchored  
8 or affixed to the realty in order to prevent  
9 dislocation by flood water and damage to life,  
10 health, and property.

11 (3) The structures or works will not adversely  
12 influence the regimen of any body of water by  
13 restricting, altering, hindering, or increasing flow  
14 of the flood waters in the floodway or flood channel  
15 expected during a flood up to a magnitude of a one  
16 hundred year frequency. (In consideration of this  
17 provision the department shall determine whether the  
18 structures or works either alone, or in combination  
19 with existing or future similar works could adversely  
20 influence the efficiency or the capacity of the  
21 floodway or adversely affect existing drainage  
22 courses or facilities. The determination of these  
23 effects shall be based on the assumption that the  
24 floodway encroachment resulting from any proposed  
25 structures or works will extend for a significant  
26 reach of the stream together with an encroachment  
27 equal in degree on the opposite side of the stream.)

(4) The structures or works are not designed for, or  
will not be used for either (a) uses associated with  
high flood damage potential or (b) dwellings for  
human habitation of a permanent nature ....

Appellants' application was denied on the basis of (2), (3) and (4)  
above.

II

By applying for a permit to establish a work or structure, we  
assume that a work or structure would ultimately be constructed. It  
is evident that appellants will use their mobile home as their

1 residence on a permanent basis. From this, it is clear that WAC  
2 508-60-040(4) requires the application to be denied.

3 Moreover, the structure or work is not intended to be firmly  
4 anchored to the realty. It was not shown that the mobile home, as so  
5 affixed, would not be dislocated by flood water. From this, WAC  
6 508-60-040(2) is also not met.

7 Finally, it was not shown that the structure or work would not  
8 adversely influence the regimen of the Cedar River by restricting,  
9 altering, hindering or increasing the flow of flood waters as required  
10 by WAC 508-60-040(3).

11 III

12 King County's decision denying the application for a flood control  
13 zone permit should be affirmed.

14 IV

15 Any Finding of Fact which should be deemed a Conclusion of Law is  
16 hereby adopted as such.

17 From these Conclusions the Board enters this  
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ORDER

The denial of an application for a flood control zone permit is affirmed.

DONE this 13<sup>th</sup> day of July, 1982.

POLLUTION CONTROL HEARINGS BOARD

*David Akana*

DAVID AKANA, Lawyer Member

*Gayle Rothrock*

GAYLE ROTHROCK, Acting Chair